

Substitute Order following Public Hearing comments and legal review

ORDER

STANDISH TOWN COUNCIL

DATE: May 13, 2008
ORDER NUMBER: 57-08

Submitted by: Newbegin

TITLE: AMENDMENT TO STANDISH TOWN CODE, CHAPTER 181, PART 1 ZONING, ARTICLE IV GENERAL STANDARDS BLASTING

ORDERED that the Town of Standish hereby ordains the following amendments to the Land Use Ordinance, effective immediately upon adoption.

The Zoning Ordinance of the Town of Standish shall be amended as follows (additions are underlined and deletions are ~~struck out~~):

§ 181-16.1. Blasting.

A. Purpose

(1) The purpose of this section is to minimize the effects of airblast overpressure, ground vibration, dust and noise associated with blasting which may be detrimental to individuals and the community in the enjoyment of life, property and the conduct of business through the establishment of standards and notice requirements of blasting operations.

(2) It is also the intent of these regulations to prevent permanent damage to the geologic, hydrogeologic and wildlife resources and ecological balance in the region, and to have a process which can be effectively and efficiently administered without causing undue financial and administrative hardship to blasting operators.

B. Permit required. A permit shall be obtained prior to any blasting with explosive devices or materials for any purpose within the boundaries of the Town of Standish.

(1) Application forms for a permit may be obtained in the Planning Office. Permits for blasting will be reviewed as follows:

(a) Any removal of a total of 300 cubic yards or less of material per project will be reviewed and approved by the Code Enforcement Officer following consultation with the Town Planner; or

(b) Permits for blasting and removal of more than 300 cubic yards of material total per project must be reviewed and approved by the Planning Board. For the purposes of this Section, the "project" shall include all blasting anticipated to be undertaken during the completion of a contract or series of contracts, for demolition, excavation or construction, or during the anticipated life of a quarry operation.

(2) All applications shall contain the following information:

(a) The name of the applicant.

(b) The name of the property owner.

(c) The general contractor.

(d) The locations of the proposed blasting activity.

(e) The total number of cubic yards of material to be removed by blasting.

(f) An estimate of the number of blasts required to remove the specified amount of material.

(g) A description of the project for which the blasting is being undertaken.

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- (h) Adjacent land uses.
- (i) The location of adjacent structures and distance to those structures.
- (j) The projected dates work is to be undertaken.

(3) Upon receipt of a completed application, the Code Enforcement Officer shall review and act upon the application within 10 days or, as appropriate, forward the application to the Planning Board within 10 days.

(a) If the application is forwarded to the Planning Board, the Planning Board shall review and act upon the application within 30 days of receipt of a completed application from the Code Enforcement Officer.

(b) The Planning Board may approve, approve with conditions or deny the application based on the performance standards contained herein. The applicant must be notified in writing by first class mail within 10 days of the decision.

(4) Public hearing. The Planning Board shall conduct a public hearing on applications for blasting and removal of more than 300 cubic yards of material total per project.

(a) All abutting property owners and/or those property owners within 500 feet of the property line of the property for which the permit is requested shall be notified by first class mail at least 10 days prior to the date of the hearing. A list of names and mailing addresses shall be provided as part of the application. Such notification shall be the responsibility of the applicant, and evidence of such notification shall be provided to the Planning Board. Failure of property owners to receive the notice sent under this Section does not invalidate any action taken by the Planning Board.

(b) Notification of the public hearing shall be given in a newspaper of local publication ~~twice~~, the first time being at least seven days prior to the date of the hearing. Cost of this publication will be paid by the applicant.

(5) Fees. All applications for blasting permits shall be accompanied by a fee as set by Town Council Order.

(6) Bond and proof of insurance.

(a) The applicant and/or the blaster may be required to post a bond in an amount to be determined by the Planning Board for those applications reviewed by the Planning Board.

(b) The applicant and/or the blaster shall present proof of liability insurance in a minimum amount of \$1,000,000 combined single limit per occurrence, except for agricultural purposes by an individual on his own property using binary explosives.

(7) Effective period. Permits shall be effective for no more than 365 days from the date of approval. For blasting operations the scope of which exceeds one year, renewal of the permit shall be accomplished by reapplying in accordance with the procedure for a new permit, except that a public hearing may be held to review past compliance with the standards contained herein and any effects on existing uses and property owners in the vicinity of such blasting operations.

C. Performance standards.

(1) Hours of detonation. Hours of detonation shall be limited to daylight hours, no earlier than 8:00 A.M. or later than 6:00 P.M., Monday through Friday inclusive, except in case of any misfires, excluding the following legal holidays: New Year's, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas.

(2) Water quality protection. Water is a precious resource and measures shall be taken to protect groundwater quality. The Planning Board may require water quality testing of private wells within 250 feet from the property line.

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(3) Under no circumstances shall the Planning Board permit any blasting for rock or mineral extraction as follows:

(a) to take place within two hundred (200) feet of an adjoining abutting property boundary line except if written permission is first obtained from the abutting property owner, or

(b) or within three hundred (300) feet of a structure not owned by the applicant.

Any written permission to allow blasting closer than 200 feet must be recorded in the Registry of Deeds.

(4) Ground vibrations, air blast overpressure and seismographic records shall meet State standards.

D. Notices required following issuance of a permit.

(1) Any person intending to detonate explosives shall first notify the Code Enforcement Officer or his duly authorized representative that a blast is planned. Such notification shall be received at least 24 hours prior to the planned detonation and shall give the time (within two hours), location where the blasting is to be done, the amount of explosives to be used and the name and business address of the person responsible for the blasting operation. Additional notification shall be given at least one hour prior to the planned detonation to Standish dispatch. The notification may be given orally over the telephone; however, the burden of proof as to whether the notification was in fact received rests with the person responsible for the blasting operation.

(2) The person responsible for a blast shall notify the Code Enforcement Officer in the event of any misfires and the proposed corrective action.

(3) Prior to any blast, the person responsible for the blast shall inform all property owners who have requested in writing to be so informed of the impending blast. Such notification shall be given by telephone at least 24 hours prior to the blast stating the time of the blast. The burden of proof as to whether the notification was in fact received rests with the person responsible for the blasting operation.

APPROVED _____ DISAPPROVED _____

ROLL CALL YEA NAY ABSTAIN

BIEGEL _____
CHRISTY _____
NEWBEGIN _____
POMERLEAU _____
SPENCER _____
STACK _____
TOMPSON _____

CLERK/SECRETARY _____

COUNCIL CHAIR _____

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Proposed Timeline:

Planning Board Public Hearing: TBD

Introduction: 5/13/08

First Reading: 6/3/08

Public Hearing: 7/8/08